

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Frusetta Analyst: Kristina North Bill Number: AB 1269
Related Bills: None Telephone: 845-6978 Amended Date: January 13, 2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: National World War II Veterans Memorial Trust Fund

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law, this bill would allow taxpayers to designate a contribution on the state tax return to a newly created National World War II Veterans Memorial Trust Fund (the Fund).

SUMMARY OF AMENDMENT

The January 13, 2000, amendment added language requiring that the form include "in the instructions information" that the contribution may be in the amount of one dollar or more and that the contribution shall be "used for" the National World War II Veterans Memorial. Further, the amendment specifies that a voluntary contribution designation for the fund not be added to the tax return until another voluntary contribution designation is removed. This amendment makes related changes regarding the date the minimum contribution amount is applied and the amount as adjusted for inflation.

The January 6, 2000, amendment added language allowing a taxpayer to designate on his or her state income tax return a voluntary contribution in excess of tax liability to the memorial fund and deleted language that would have amended the Military and Veterans Code to add and repeal a requirement that the Department of Veterans Affairs and the Employment Development Department jointly prepare a study regarding veterans programs and services.

EFFECTIVE DATE

This bill would be effective January 1, 2001, and apply to taxable years beginning the first taxable year and remain in effect until January 1 of the third taxable year after a voluntary contribution designation for the fund is added to the tax return.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald H. Goldberg

2/8/00

LEGISLATIVE HISTORY

SB 703 (Poochigian - Ch. 864, Stats. 1999) appropriated \$1,032,000 from the General Fund to the Department of Veterans Affairs for allocation to the American Battle Monuments Commission for the construction of the World War II Memorial in Washington, D.C. Congress approved the design and set a construction start date of Veterans Day, 2000.

BACKGROUND

Thirteen voluntary contribution funds appear on the 1999 state tax return. Total contributions to the funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3 million in 1998/1999. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

SPECIFIC FINDINGS

Current federal tax law provides a true checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 13 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. Attachment I shows the specific sunset dates for each voluntary contribution fund and indicates that all funds except the California Seniors Special Fund must meet a minimum contribution test (as indexed, if required) to remain on the return. Attachment II is a chart indicating the number and dollar amount of contributions to the funds for multiple fiscal years.

This bill would establish the National World War II Veterans Memorial Trust Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. The contributions may be made individually by each signatory on a joint return. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require the FTB to revise the personal income tax return to include a designation space for the Fund beginning with the first taxable year another voluntary contribution fund is removed.

For the second taxable year the fund is on the return, **this bill** would require the fund to meet the \$250,000 minimum contribution test. Beginning in the third calendar year, the FTB would be required to adjust the \$250,000 minimum contribution amount for inflation. If in any calendar year the FTB estimates by September 1 that contributions made under this bill will be less than \$250,000 (as indexed), the fund would be repealed.

This bill would provide that this fund remain in effect until January 1 of the third taxable year after the fund appears on the tax return, unless a later enacted statute deletes or extends that date.

This bill would provide that a taxpayer's return be treated as if no designation has been made if payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer from the Personal Income Tax Fund to the memorial fund the total amount designated for contribution by taxpayers to that fund, less the direct, actual costs of the FTB for the collection and administration of the fund.

This bill specifies that this article creates an additional funding source for National World War II Veterans Memorial and that these funds must be used to supplement, not replace, other funding sources for this program.

Under the Military and Veterans Code, and upon appropriation of the Legislature, the moneys in the trust fund will be allocated to the American Battle Monuments Commission for the construction of the World War II Memorial as described.

Policy Consideration

The placement of voluntary contributions on the tax return limits the amount of space available for tax-related items. The inclusion of non-tax related information could ultimately impair tax collection and reduce administrative efficiency.

Implementation Consideration

This bill does not provide an "ordering rule" to determine placement on the tax return should other voluntary contribution funds be enacted with the same requirement that another be removed before a new fund is added. Without an ordering rule, in those cases, the department would place a new contribution fund on the return for each contribution fund removed from the return, based on the chaptering order of the bills creating the funds. It might be appropriate for the author to include this, or another ordering rule, in the bill.

Technical Consideration

Author's staff indicated its intent to require clarification in the accompanying tax information booklet and not on the tax return itself, that contributions made to the Fund would be for use on the National World War II Veterans Memorial. To clarify the author's intent and to eliminate related redundant language, Amendments 1 and 2 are provided.

This bill does not provide for the reimbursement of direct actual costs of the Controller for the administration of the fund, including the transfer of moneys from the Personal Income Tax Fund to the fund. The author may wish add language to provide for such reimbursement. Amendment 2 is provided.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

If the minimum level of contributions is achieved each year, potential revenue losses from this bill would be very minor, on the order of \$15,000 annually, beginning with first fiscal year after the fund appears on the tax return. The loss would result from itemized deductions for the contributions.

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Tax Revenue Discussion

According to departmental data, the total amount of voluntary contributions was approximately \$3 million for fiscal year 1998/1999 with an average of nearly \$260,000 per individual designated fund.

Assuming contributions equal or exceed the minimum contribution threshold and all contributors itemize deductions and make no reductions in other charitable contributions, the annual revenue loss, beginning with the first fiscal year the fund appears on the tax return, would be on the order of \$15,000 by applying an average marginal tax rate of 6%.

BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1269
As Amended January 13, 2000

AMENDMENT 1

On page 3, delete lines 26 through 30, and insert:

permitted under subdivision (a). The Franchise Tax Board shall include in the accompanying tax information booklet that the contributions will be for use on the World War II Memorial in Washington, D.C.

AMENDMENT 2

On page 4, strike lines 11, 12 and 13 and insert:

Code, for use on the World War II Memorial in Washington D.C. Upon appropriation by the Legislature, the Controller shall transfer the amount of reimbursement for direct actual costs incurred by the Franchise Tax Board and the Office of the Controller in the administration of this fund.